

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | JANUARY 21, 2022

January 21, 2022

WEEKLY OVERVIEW

The second week of the 2022 session opened with the introduction of Congressional redistricting maps, swift legislative action to extend Gov. Laura Kelly's Executive Orders (EOs) to assist health care institutions with recruiting staff before the EOs expire, and progress on a sales tax exemption proposed to assist those impacted by the wildfires. The Senate passed SB 318 (the wildfire-affected sales tax exemption) on a 35-0 vote on Thursday. The week closed with debate on the Senate floor regarding Congressional redistricting with Republicans' Ad Astra 2 map passing 26-9.

Both the House and Senate Redistricting Committees focused on the Congressional map with hearings and quick action on the Republican map in the Senate. Both House and Senate Republicans proposed identical Congressional maps, while House and Senate Democrats proposed different maps. Democrats alleged "gerrymandering" with the splitting of Wyandotte County into two Congressional districts and moving Douglas County into the 1st Congressional District. We have linked a short article with the various maps proposed attached. See here.

One new bill attracting attention this week is SB 347, which proposes remarkable economic incentives for one or perhaps more projects in which national corporate headquarters or a significant capital investment to Kansas are involved. The bill includes a refundable tax credit for a portion of the investment and other significant incentives. The bill was introduced on Tuesday and immediately added to the Senate Commerce Committee schedule for hearings on Wednesday and Thursday. On Wednesday, the Department of Commerce explained the need for the unique economic development bill. Commerce disclosed that currently Kansas is competing for a potential \$4 billion project. Kansas has entered into confidential negotiations for the project with potentially \$1 billion in support for an undisclosed business. The business would invest up to \$4 billion in eastern Kansas. The project under negotiation required Commerce officials to execute a nondisclosure agreement prohibiting identification of the subject company. Commerce's Paul Hughes testified that the state has lost a dozen economic development projects in

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recent years, and that the bill's proposed incentives are key to winning such projects. The undisclosed business would create the largest plant in the state and produce at least 4,000 jobs. Commerce urged prompt passage of the bill. On Thursday, the Senate Commerce Committee heard testimony in favor from business groups including the Kansas Chamber and opposition from the Kansas Policy Institute.

EXECUTIVE ORDERS LEGISLATION

On Jan. 6, 2022, Gov. Kelly declared a statewide state of disaster emergency to address an increased need for patient care due to COVID infections and hospitalizations. She issued two Executive Orders: 22-01 and 22-02. EO 22-01 provides temporary relief from certain restrictions and licensure requirements governing the provision of medical services and health providers (physician assistants, advanced practice registered nurses, licensed practical nurses, nurse anesthetists, registered professional nurses, and licensed pharmacists) to perform certain additional services. EO 22-02 addresses the licensure, certification, and registration for adult care home staff and licensure of adult care homes. The EOs would expire today, Jan. 21, unless extended by legislative action.

The Senate Judiciary Committee extended the expiration date until Jan. 20, 2023. The Senate passed the bill Thursday 36-2. Also Thursday, the House concurred with Senate changes to the original House-sponsored extension 96-4. This action sends the bill to the governor ahead of the Jan. 21 expiration date.

REDISTRICTING UPDATE

On Tuesday, House and Senate Republicans introduced identical Congressional maps with 734,470 Kansans in all four Congressional districts. Republicans named their map "Ad Astra." It would move the northern half of Wyandotte County into the 2nd Congressional District and Douglas County into the big 1st Congressional District.

Senate Democrats introduced a map called "United." The United map slightly adjusts current districts to account for the rural-to-urban population shifts. The House Democrats' map was labeled "Buffalo 2." The Democrats' maps would leave Johnson and Wyandotte Counties in District 3. The 2nd District would be concentrated in northeast Kansas and the 1st District would encompass part of southeast Kansas. Rep. Tom Burroughs, speaking on behalf of Buffalo 2, argued that any new map should keep communities of interest together. The League of Women Voters also introduced a map labeled "Bluestem" that is essentially similar to the House Democrats' maps. Rep. Kyle Hoffman introduced the "Sunflower" map originally presented but not passed during 2012 redistricting debate. It would move Wyandotte County into the rural 1st Congressional District.

On Thursday, both House and Senate Redistricting Committees heard testimony on the various maps. Thursday evening, the Senate Redistricting Committee introduced and passed "Ad Astra 2" with minor changes from the original map. Friday morning, the Senate debated Ad Astra 2 and passed it along party lines.

After the 2020 census, Kansas narrowly avoided losing a Congressional seat. Thankfully, the 2022 reapportionment debate is not about moving from four to three Kansas congressional seats. However, given current population trends, the 2032 Kansas Legislature will again face that problem.

2022 LEGISLATIVE DEADLINES

The first legislative deadline is slightly more than a week away. Monday, Jan. 31, is the final day for members to request bill drafts from the Revisor's Office. Thursday, Feb. 24 (Turnaround Day) is the last day for non-exempt bills to pass in the originating chamber. First adjournment is scheduled for April 1, which is the last day to consider non-exempt bills from the other chamber. The veto session is anticipated to begin on April 25. These deadlines do not apply to exempt committees: House Appropriations Committee, House and Senate Federal and State Committees, House and Senate Tax Committees and the Senate Ways and Means Committee.

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BILL INTRODUCTIONS

TAXATION

SB 339 – Would eliminate the Kansas sales tax on food and food ingredient sales beginning Jan. 1, 2023. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 318 – As amended by the Senate Committee of the Whole, would enact a sales-tax exemption for certain fencing and expand the ability of county commissions to abate property taxes on certain types of real property destroyed or substantially destroyed by natural disasters. Passed on emergency final action: Yea, 35; Nay, 0.

SB 354 – Would exclude discounts and coupons from being considered part of the selling price for purposes of calculating the state sales tax.

HB 2493 – Would establish additional distinctions regarding residential and agricultural property classifications for ad valorem tax purposes. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

SB 359 – Would expand the eligible uses for the 0% state rate for sales of certain utilities and provide for the levying of such tax by cities and counties. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HEALTHCARE

HB 2477 – As amended by the House Committee of the Whole, would create and amend law to temporarily adjust requirements related to adult care homes and healthcare professionals in response to the COVID-19 pandemic. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair. The Senate Committee of the Whole passed the bill as amended on emergency final action: Yea, 36; Nay, 2. The House concurred with amendments: Yea, 96; Nay, 4.

SB 335 – Would exempt self-funded health plans described in K.S.A. 40-2222 from the 1.0 percent annual premium tax. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair. A hearing was scheduled for this matter on Thursday, Jan. 20, 2022.

EDUCATION

SB 340 – Would clarify certain provisions of the existing Kansas Promise Scholarship Act. Referred to the Senate Committee on Education, Sen. Molly Baumgardner, Chair.

AGRICULTURE

SB 345 – Would authorize the State Animal Health Commissioner to impose a civil penalty for violations related to transporting animals into the state. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

SB 346 – Would allow on-farm retail sale of milk and milk products, but expands existing law authorizing the Secretary of Agriculture to declare an imminent health hazard where action is deemed necessary to protect public health from anticipated injury. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair. A hearing was scheduled for this matter on Thursday, Jan. 20, 2022.

SB 358 – Would amend the public water-supply project loan program law to now include projects related to the diversion or transportation of water acquired through a water transfer. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

COURTS, LAWS, AND REGULATIONS

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HB 2495 – Would, among other things, prohibit a public agency from (1) requiring an individual to provide an agency with personal information or compel the release of personal information; (2) requiring any entity that is exempt from federal income taxation under section 501(c) of the Internal Revenue Code to provide an agency with personal information or compelling the release of such personal information; or (3) releasing or publicly disclosing information in the possession of any agency. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. A hearing on the matter has been set for Jan. 25, 2022.

SB 347 – Would promote economic development by providing tax and other financial incentives aimed at attracting a specific industrial entity to locate its headquarters in Kansas. Referred to the Senate Committee on Commerce, Sen. Renee Erickson, Chair. A hearing set for Jan. 20, 2022, was continued. See also HB 2497.

HB 2489 – Would amend and clarify certain provisions of the Technology-Enabled Fiduciary Financial Institutions Act. Referred to the House Committee on Financial Institutions and Rural Development, Rep. Jim Kelly, Chair. A hearing has been set on the matter for Jan. 26, 2022.

SB 150 – As amended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would create law related to legal advertising and the use of protected health information to solicit individuals for legal services. Importantly, the bill would require a person engaging in legal advertising within Kansas, among other things, to disclose that the advertisement is for legal services and not style an advertisement as a “media alert,” “health alert,” “consumer alert,” “public service announcement,” etc. The Committee on Judiciary recommends passage of the bill as amended.

HB 2518 – Would amend law applicable to local improvement districts. Referred to the House Committee on Local Government, Rep. Kent Thompson, Chair.

SB 361 – Would liberalize the maximum workers’ compensation benefit payable for total disability. Referred to the Senate Committee on Commerce, Sen. Renee Erickson, Chair.

UTILITIES

SB 349 – Would, with certain exceptions, limit increases in certain retail electric-rate increases. The prohibitions do not apply to electric cooperatives as defined by K.S.A. 66-104d. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, Chair.

SB 350 – Would amend the law to authorize new rate-recovery mechanisms for certain electric generation facilities. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, Chair.

SB 353 – Would enact the Industrial Turbine Health and Safety Standards Act relating to wind-generating facilities and associated construction and setback requirements. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, Chair.

HCR 5023 – This Concurrent Resolution denounces price gouging and market manipulation in the natural-gas marketplace and supports the ongoing investigation of significant price increases during the February 2021 winter weather event. Referred to the House Committee on Energy, Utilities and Telecommunications, Rep. Blaine Finch, Chair. A hearing has been scheduled for this matter on Thursday, Jan. 27, 2022.

Kansas Legislative Insights is a publication developed by the Governmental Affairs & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session, it focuses on issues involving healthcare, insurance, public finance, taxation, financial institutions, business & economic development, energy, real estate &

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construction, environmental, agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Affairs & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or jrankin@foulston.com. Learn more about the authors below:

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